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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/666,129	09/20/2000	Hideo Ando	197393US2S CONT	1905

22850 7590 10/03/2006

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EXAMINER

BOCCIO, VINCENT F

ART UNIT

PAPER NUMBER

2621

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/666,129

Applicant(s)

ANDO ET AL.

Examiner

Vincent F. Boccio

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE and Amendment of 7/12/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-25 and 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-25 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 2621.

Response to Arguments

1. Applicant's arguments filed 7/21/06 have been fully considered but they are not persuasive.

Claims 24-26, which are really claims 23-25 and 27, with respect to claim 1 of US patent 7,006,757 are distinct.

The claim numbers are claims 23-25 and 27, although after a careful analysis the examiner deems the presented claims 23-25 and 27 to be obvious in view of Patented claims 1, 3, 5, see detailed action below.

Although the examiner deems the presented claims are patentable distinct in view of the prior art, as stated by applicant and agreed by the primary examiner, for the reasons of record.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting

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ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 24, 23, 26, 27 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim of U.S. Patent No. 7,006,757 in view of Hirabayashi et al. (US 6,002,834).

Claim 24 recites all as recited in patented claim 1, but, claim 24 further recites having presentation time stamp information items, which correspond to a point in the stream which are different from those of the transport packets or additional time stamp information being presentation time information.

Hirabayashi et al. teaches providing a table in a management area having time code information being a presentation time stamp information reference Fig. 2, used for trick play operations col. 3-4, as taught by Hirabayashi.

Therefore, it would have been obvious to one skilled in the art at the time of the invention to further recite having presentation time stamp information in the management area having the advantages of performing trick play operation using the time code information, as taught by Hirabayashi.

Regarding claim 23, the patented claims fails to recite a first and second reproducers for management and stream data.

The examiner takes official notice that it is well known and obvious and (inherent to a disk/disc/DVD type player), which require at least one head and further obvious to further recite a first and second reproducers, met by either one or two heads (by not specifically stating these elements to be separate or distinct, which as claimed can be interpreted as one Head for reproducing the stream data and management data), associated with the data on the medium, as is obvious to those skilled in the art.

Claim 26 a method of recording and claim 27, method of reproduction, are obvious over patented claims 3 method of

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recording and ^{claim}5 method of reproduction, respectively, are deemed obvious for substantially the same reasons, as medium claim 24 against claim 1, in view of Hirabayashi as analyzed and discussed above. VPS

Allowance of claims 23-25 and 27 of the instant application would result in a time-wise extension of the monopoly previously granted for the invention defined by patent claim(s), therefore, obviousness type double patenting is deemed proper.

Contact Fax Information


Any response to this action should be faxed to:

(571) 273-8300, for communication as intended for entry,
this Central Fax Number as of 7/15/05

Contact Information

Any inquiry concerning this communication or earlier communications should be directed to the examiner of record, Monday-Tuesday & Thursday-Friday, 8:00 AM to 5:00 PM Vincent F. Boccio (571) 272-7373.

Primary Examiner, Boccio, Vincent
9/30/06


VINCENT BOCCIO
PRIMARY EXAMINER